

TOWN OF KITTERY, MAINE  
PLANNING BOARD MEETING  
Council Chambers

APPROVED  
July 12, 2012

Meeting called to order at 6:04 p.m.

Board Members Present: Thomas Emerson, Deborah Driscoll, Robert Melanson, Ann Grinnell, Rich Balano, David Kelly

Members absent: Susan Tuveson

Staff: Gerry Mylroie, Town Planner

Pledge to the Flag

**Minutes: June 28, 2012**

**Mr. Balano moved** to accept the minutes of June 28, 2012 as amended

**Mr. Kelly seconded**

**Mr. Mylroie** noted, for clarification, that the CEO and Planner, together, may grant a minor amendment to an approved site plan.

**Motion carries unanimously**

Public Comment:

Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

There was no public comment.

**ITEM 1– James and Jodie Nielsen, Right-of-Way Plan.** Action: hold public hearing and grant or deny approval. James and Jodie Nielsen, owner and applicant, requests approval to create a Class I Private Street located off Picott Road, in the Residential-Rural Zone, Tax Map 60, Lot 2. Owner's agent is Bill Anderson, P.E. with Anderson Livingston Engineers.

The Public Hearing opened at 6:10 p.m.

**Bill Anderson** summarized the private way request to serve two house lots, noting the peer review engineers requested wetland mapping of the site. He suggested that due to the size of the parcel and the soil mapping already done, complete wetland delineation not be required. Mr. Kelly stated a wetland alteration permit will be needed for the road crossing. Mr. Anderson stated they will provide iron pipe monumentation, rather than granite monumentation, as this is a private road. This will require a waiver request to the Planning Board.

There was no public comment

The Public Hearing closed at 6:15 p.m.

**Mr. Emerson** asked about vernal pools on the property. Mr. Anderson stated a soil scientist did not locate any vernal pools on the site. **Earldean Wells** noted identification of vernal pools is conducted in April and May. **Ms. Driscoll** asked if the existing road, Ella Woods Drive, could be used, and requested the wetland areas be identified on the site plan, including in the proposed house lots. Mr. Anderson stated the drive is a private road and extending it would cause too many lots to access the road, and it is not up to town road standards. Additionally, the site distances on Ella Woods Drive are not suitable. Mr. Kelly noted a wetland alteration application should address the wetland issues at the roadway. The Board is reviewing a road application, and wetland identification and impact needs to be clear. In summary, the applicant will need a wetland alteration permit, a waiver request for iron monumentation, and a road name application prior to final approval. Mr. Mylroie stated a proposed subdivision would be a subsequent submittal and lot delineation is not required at this time for the private road review and approval.

**Mr. Kelly moved** to grant preliminary plan approval of the right-of-way plan.

**Mr. Balano seconded**

**Mr. Emerson** noted the access onto Picot appears to be a safer choice than extending Ella Woods drive, but his concern is wetland impact on the parcel.

**Motion carries unanimously**

**ITEM 2– 50 State Road - Mixed Use Building Redevelopment –Site/Subdivision Plan.** Action: hold public hearing and grant or deny preliminary/final approval. Jeff Apsey, owner and applicant, requests approval to redevelop the existing building and associated parking located at 50 State Road, in the Business- Local-1 Zone, Tax Map 3, Lot 2.

**Jeff Apsey** responded to peer review and staff comments on his application, and summarized the site work accomplished to date. Discussion followed regarding drainage on and off-site, parking and circulation, landscaping and landscape buffers, traffic impact, and existing site constraints. The Board requested outstanding items be submitted prior to final plan review, including a traffic analysis/statement and remaining issues identified in the July 3, 2012 memorandum from CMA Engineers.

The Public Hearing opened at 7:26 p.m.

David Pratt, Frame Shop, Wallingford Square, noted he plans to move his business to this property, and requested a speedy review so they could do so.

The Public Hearing closed at 7:28 p.m.

**Mr. Kelly moved** to grant preliminary site plan approval

**Mr. Balano seconded**

**Motion carries unanimously**

**ITEM 3– 10 thru 16 Jewett Lane - Minor Subdivision Plan.** Action: hold a public hearing and grant or deny approval. Brenda MacKenzie, owner and applicant, requests approval to create a subdivision to include four lots formerly part of a family subdivision located along Jewett Lane, in the Residential Rural Zone, Tax Map 29, Lots 20A, 20B1, 20C and 20D. Agent is Ken Markley, North Easterly Survey, Inc.

Jeff MacKenzie presented a revised plan (dated 7/12/12). Mr. MacKenzie noted the only lot he sold was to an abutter, Michael Kingston, and according to state law, 30-A§4401-D-6 which states:

*A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transfer is to avoid the objective of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.*

The Public Hearing opened at 7:35 p.m.

**Michael Kingston**, 9 Jewett Lane, is concerned about water runoff on Jewett Lane and any additional changes that may be made that could negatively impact the adjacent properties.

**Aaron Johnson**, 7 Jewett Lane, stated he felt all members of the association should have been notified. He also noted his concerns about drainage in the area, as they have all experienced water in their

basements. [Abutters identified location of culverts] If houses and driveways are built, there will be an increase in runoff.

**Mark Castinalli**, 1 Jewett Lane, noted his concern about the association's interest in further development along Jewett Lane, as well as development and construction impact.

**Chris Worthington**, 12 Jewett Lane, noted he is married to Jeff MacKenzie's niece, and is also concerned about water runoff onto his property.

**Jeff MacKenzie** commented that he paid to have abutters notified. **Mr. Emerson** explained abutters were notified, but the requirements for notification are based on distance from the subject property. Mr. MacKenzie explained he is going through the process to have the subdivision approved, though he believes this approval is unnecessary because it is a family subdivision.

The Public Hearing closed at 7:56 p.m.

**Mr. Melanson** stated he felt the Board needs the Town Attorney's review regarding the state's exemption when purchased by an abutter. Board members concurred.

**Mr. Melanson moved** to continue this review following Attorney McEachern's determination of the abutter exemption.

**Mr. Kelly seconded**

**Motion carries unanimously**

Break

## **OLD BUSINESS**

**ITEM 4– Town Code Title 16 Land Use Development Code Amendments.** Action: review/determine if to forward recommendation to Town Council regarding: Residential and Mixed Use Cluster Development: a.) Article XI Cluster Residential and Cluster Mixed-Use Development; b.) Chapter 16.2, Definitions; and c.) Article II, Zone Definitions, Uses, Standards.

**Ms. Grinnell moved** to forward to Town Council amendments to Article XI Cluster Residential and Cluster Mixed –Use Development, Chapter 16.2 Definitions, and Article II, Zone Definitions, Uses and Standards for adoption.

**Mr. Kelly seconded**

**Motion carries unanimously**

**ITEM 5– Town Code Title 16 Land Use Development Code Amendments.** Action: review/determine if to forward recommendation to Town Council regarding: Administrative Corrections and Updates.

**Ms. Grinnell moved** to forward to Town Council the administrative corrections and updates for adoption.

**Mr. Kelly seconded**

**Motion carries unanimously**

## **ITEM 6 –Town Planner Items**

A. York Hospital Site Plan Amendment; B. Business District Quality Improvement Plans; C. Comprehensive Plan Update; Contract Zoning response; and E. Other Updates.

**A. York Hospital Site Plan - Mr. Mylroie** stated a notice of violation had been issued.

- B. Business District QIP** – Meeting was held on July 11 discussing marketing efforts during bridge reconstruction. Each business district has been encouraged to prepare specific plans consistent with the Comprehensive Plan.
- C. Comprehensive Plan Update** – Meeting scheduled for the following week, with the intent of having materials ready for the Council and voters by November. **Ms. Driscoll** suggested the ordinance continue to be amended to comply with the existing Comprehensive Plan.
- D. Contract Zoning** – Discussions to develop proposed language underway. **Ms. Grinnell** stated the possibility of changing zone setbacks, rather than developing a contract zone, have been discussed. **Mr. Emerson** explained this will be a long process of review and discussion by committees and the Planning Board before a recommendation to Council and voters is undertaken.

The Town Council is conducting a workshop to discuss planning and development activities on Monday, July 16 at 6:00 p.m. The Planning Board, Economic Development Committee, and the Comp Plan Update Committee have been invited.

**Mr. Melanson moved** to adjourn

**Mr. Kelly seconded**

**Motion carries unanimously by all members present**

The Kittery Planning Board meeting of July 12, 2012 adjourned at 8:30 p.m.

Submitted by Jan Fisk, Recorder – July 16, 2012